

AO 440 (Rev. 8/01) Summons in a Civil Action

UNITED STATES DISTRICT COURT

Southern

District of

New York

CRITERIUM CAPITAL FUNDS B.V., et al.

SUMMONS IN A CIVIL ACTION

V.

BERNARD L. MADOFF, et al.

CASE NUMBER:

09 CIV 5386

TO: (Name and address of Defendant)

Phillip A. Evans  
Moore Stephens  
L'Estoril, Bloc C, 31 Avenue Princesse Grace,  
MC 98000 Monaco

JUDGE BATTS

**YOU ARE HEREBY SUMMONED** and required to serve on PLAINTIFF'S ATTORNEY (name and address)

David A. Barrett  
BOIES, SCHILLER & FLEXNER LLP  
575 Lexington Avenue  
New York, NY 10022

an answer to the complaint which is served on you with this summons, within twenty (20) days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

**J. MICHAEL McMAHON**

CLERK

*Patricia Custas*

DATE

JUN 10 2009

(By) DEPUTY CLERK

PRINCIPALITY OF MONACO  
Direction of Public Safety

Division of Urban Police  
BP 555  
MC 98015 MONACO CEDEX  
Tel.: +377.93.15.30.15

DIR. N° 32637

RECEIPT

LEGAL PROCESS – JUDICIAL DOCUMENT

Submitted by the GENERAL PROSECUTOR'S OFFICE  
in MONACO to be delivered to the interested party

GENERAL PROSECUTOR'S OFFICE  
RECEIVING DATE  
DEC. 2, 2009

RECEIVER Mr. Phillip A. Evans

ADDRESS 31 Avenue Princesse Grace

98000 MONACO

Date of service and signature of receiver	REMARK
<p>Received the legal process referenced in the General Prosecutor's Office in MONACO under n° <u>2341</u> AJ <u>09</u>  In Monaco, on December 1, 2009 at 11:05 a.m.  <i>Matysek Jérémy</i></p>	<p><i>Receptionist for Mr. Evans</i>  <i>[Signature]</i></p>

FRUITLESS SEARCH: STATING THAT THE SEARCH WE CONDUCTED DID NOT SUCCEED. THE INTERESTED PARTY IS NO LONGER DOMICILED AT THE ADDRESS INDICATED. HIS/HER REAL ADDRESS IS UNKNOWN.

REPORT OF DEFAULT: STATING THAT THE INTERESTED PARTY DOES RESIDE AT THE ADDRESS INDICATED BUT COULDN'T BE REACHED AT HIS/HER DOMICILE AND THAT HE/SHE DIDN'T COMPLY WITH THE INVITATIONS WITH CAUSE WHICH WERE SENT TO HIM/HER.

CHANGE OF ADDRESS: STATING THAT THE SEARCH THAT WAS CONDUCTED INDICATED THAT THE INTERESTED PARTY NO LONGER LIVES AT THE ADDRESS INDICATED AND THAT HE (SHE) COULD BE SUCCESSFULLY FOUND AT THE FOLLOWING ADDRESS (SEE "REMARK" ABOVE).

The Police Detective Alex SEGUIN  
*[Signature]*

Case Name: Criterium Capital Funds B.V. v Madoff  
 Defendant: Phillip A. Evans  
 Court Case No.: 09 CIV 5386

# CERTIFICATE

The undersigned authority has the honour to certify, in conformity with article 6 of the Convention,

1) that the request has been executed\*

- the (date) December 1, 2009

- at (place, street, number) 31, avenue Princesse Grace  
MC 98000 MONACO

- in one of the following methods authorised by article 5-

☒ (a) in accordance with the provisions of sub-paragraph (a) of the first paragraph of article 5 of the Convention\*.

☐ (b) in accordance with the following particular method\*: \_\_\_\_\_

☐ (c) by delivery to the addressee, who accepted it voluntarily.\*

The documents referred to in the request have been delivered to:

- (identity and description of person) to the Receptionist for Mr. EVANS

- relationship to the addressee (family, business or other): \_\_\_\_\_

2) that the document has not been served, by reason of the following facts\*: \_\_\_\_\_

In conformity with the second paragraph of article 12 of the Convention, the applicant is requested to pay or reimburse the expenses detailed in the attached statement\*.

LIST OF DOCUMENTS: Summons in a Civil Action, Complaint, Summary of the Document to Be Served, Translations

Annexes

Documents returned:

Receipt, Transmission to the General Prosecutor's  
office, Judicial writ, translation

Done at MONACO the December 3, 2009

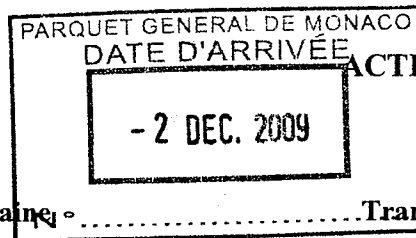
In appropriate cases, documents establishing the service:

Signature and/or stamp.

The Director  
 of Judicial Services

*[Signature and stamp]*

\* Delete if inappropriate.



ACTE JUDICIAIRE - JUDICIAL DOCUMENTS

Division de Police urbaine -

BP 555

MC 98015 MONACO CEDEX

Tél: + 377.93.15.30.15

Transmis par le PARQUET GENERAL de MONACO  
aux fins de remise à l'intéressé(e)

N° DIR : 82627

DESTINATAIRE  
RECEIVER

Monsieur Philippe A. EVANS

DEMEURANT A  
ADRESS

31 Avenue Grimaldi

98000 MONACO

Récépissé donné par la partie intéressée Datum der Zustellung und Unterschrift des Empfängers Data della notifica e firma del destinatario Date of service and signature of receiver	OBSERVATIONS BEOBACHTUNG OSSERVAZIONI REMARK
Reçu l'acte judiciaire référencé au Parquet Général de MONACO sous le N° 2341 AJ 09 A Monaco, le 1 <sup>er</sup> Décembre 2009 à 18h05 heures Matysek Henry	Réceptioniste pour M <sup>re</sup> Evans. 

**VAINES RECHERCHES :** DISONS QUE LES RECHERCHES AUXQUELLES NOUS AVONS PROCÉDÉ N'ONT PAS ABOUTI. L'INTÉRESSÉ(E) N'HABITE PLUS À L'ADRESSE INDICUÉE. SON ADRESSE ACTUELLE EST INCONNUE.

**CONSTAT DE CARENCE :** DISONS QUE L'INTÉRESSÉ(E) HABITE TOUJOURS À L'ADRESSE INDICUÉE MAIS QU'IL (ELLE) N'A PU ÊTRE TOUCHÉ (E) À SON DOMICILE ET QU'IL (ELLE) N'A PAS DÉFERÉ AUX CONVOCATIONS MOTIVÉES QUI LUI ONT ÉTÉ ADRESSÉES.

**CHANGEMENT D'ADRESSE :** DISONS QUE LES RECHERCHES ENTREPRISES ONT PERMIS DE SAVOIR QUE L'INTÉRESSÉ(E) N'HABITE PLUS À L'ADRESSE INDICUÉE ET QU'IL (ELLE) POURRAIT ÊTRE UTILEMENT RECHERCHÉ(E) À L'ADRESSE SUIVANTE (VOIR CADRE OBSERVATIONS)

L' Agent de POLICE JUDICIAIRE  
Alex SEGUIN ~~FRANÇOIS BASSCH~~

APPLICANT IS AUTHORIZED TO SERVE JUDICIAL PROCESS UNDER THE UNITED STATES FEDERAL RULES OF CIVIL PROCEDURE AND UNDER THE RULES OF CIVIL PROCEDURE OF THE STATE OF: New York

## REQUEST

## FOR SERVICE ABROAD OF JUDICIAL OR EXTRAJUDICIAL DOCUMENTS

## DEMANDE

AUX FINS DE SIGNIFICATION OU DE NOTIFICATION A L'ÉTRANGER  
D'UN ACTE JUDICIAIRE OU EXTRAJUDICIAIRE

Convention on the Service abroad of judicial and extrajudicial documents in civil or commercial matters, signed at The Hague, November 15, 1965.

Convention relative à la signification et à la notification à l'étranger des actes judiciaires ou extrajudiciaires en matière civile ou commerciale, signée à La Haye, le 15 Novembre 1965.

<p><b>Identity and address of the applicant</b> <i>Identité et adresse du requérant</i></p> <p><b>Diane K. Myers</b> <b>APS INTERNATIONAL, LTD</b> <b>APS International Plaza</b> <b>7800 Glenroy Road</b> <b>Minneapolis, Minnesota 55439-3122</b> <b>U.S.A.</b> <b>Tel. 952.831.7776 Fax: 952.831.8150</b> <b>Email: DMyers@CivilActionGroup.com</b></p>	<p><b>Address of receiving authority</b> <i>Adresse de l'autorité destinataire</i></p> <p><b>Direction des Services Judiciaires</b> <b>Palais de Justice</b> <b>5, rue Colonel Bellando de Castro</b> <b>MC - 98000 MONACO</b></p> <p><b>Monaco</b></p>	<p><b>PARQUET GÉNÉRAL DE MONACO</b> <b>DATE D'ARRIVÉE</b></p> <p><b>26 NOV. 2009</b></p> <p><b>PRINCIPAUTÉ DE MONACO</b> <b>N° DIRECTION DES SERVICES JUDICIAIRES</b></p> <p><b>25 NOV. 2009</b></p> <p><b>N° 2009-AJ-664</b></p>
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The undersigned applicant has the honour to transmit -- in duplicate -- the documents listed below and, in conformity with article 5 of the above-mentioned Convention, requests prompt service of one copy thereof on the addressee, i.e.,

(identity and address)

Le requérant soussigné a l'honneur de faire parvenir -- en double exemplaire -- à l'autorité destinataire les documents ci-dessous énumérés, en la priant conformément à l'article 5 de la Convention précitée, d'en faire remettre sans retard un exemplaire au destinataire, savoir:

(identité et adresse) Phillip A. Evans

Moore Stephens, L'Estoril, Bloc C, 31 Avenue Princesse Grace, MC 98000 Monaco, MONACO

Tel:

☒ (a) in accordance with the provisions of sub-paragraph (a) of the first paragraph of article 5 of the Convention.\*

a) selon les formes légales (article 5, alinéa premier, lettre a).

☐ (b) in accordance with the following particular method (sub-paragraph (b) of the first paragraph of article 5)\*:

b) selon la forme particulière suivante (article 5, alinéa premier, lettre b):

☐ (c) by delivery to the addressee, if he accepts it voluntarily (second paragraph of article 5)\*.

c) le cas échéant, par remise simple (article 5, alinéa 2).

The authority is requested to return or to have returned to the applicant a copy of the documents -- and of the annexes\* -- with a certificate as provided on the reverse side.

Cette autorité est priée de renvoyer ou de faire renvoyer au requérant un exemplaire de l'acte et des annexes, avec l'attestation figurant au verso.

## List of documents

Énumération des pièces

Summons in a Civil Action

Complaint

Summary of the Document to Be Served

Translations Vu et transmis à

**M. LE PROCUREUR GÉNÉRAL**  
**aux fins demandées**

**MONACO, le 25 novembre 2009**

**Le Directeur des Services Judiciaires**



**APS INTERNATIONAL**  
**APS International Plaza**  
**7800 Glenroy Road**  
**Minneapolis, MN 55439**

Fait à Minneapolis, Minnesota, U.S.A.

, the 11-23-09

Signature and/or stamp.

Signature et/ou cachet.

*Diane K Myers*  
(Formerly OBD-116 which was formerly LAA-116,  
both of which may still be used)

USM-94

(Est. 11/22/77)

\* Delete if inappropriate.  
Rayer les mentions inutiles

Case Name: Criterium Capital Funds B.V. v. Madoff  
 Defendant: Phillip A. Evans  
 Court Case No.: 09 CIV 5386

**CERTIFICATE  
 ATTESTATION**

The undersigned authority has the honour to certify, in conformity with article 6 of the Convention,  
*L'autorité soussignée a l'honneur d'attester conformément à l'article 6 de ladite Convention,*

1) that the document has been served\*

1. *que la demande a été exécutée*

- the (date)
- le (date)
- at (place, street, number)
- à (localité, rue numéro)

1<sup>er</sup> décembre 2009

31, avenue Princesse Grace

MC 98000 MONACO

- in one of the following methods authorised by article 5-
- dans une des formes suivantes prévues à l'article 5:

☒ (a) in accordance with the provisions of sub-paragraph (a) of the first paragraph of article 5 of the Convention\*.

a) *selon les formes légales (article 5, alinéa premier, lettre a).*

☐ (b) in accordance with the following particular method\*:

b) *selon la forme particulière suivante:*

☐ (c) by delivery to the addressee, who accepted it voluntarily.\*

c) *par remise simple*

The documents referred to in the request have been delivered to:

*Les documents mentionnés dans la demande ont été remis à:*

- (identity and description of person)

- (identité et qualité de la personne)

au Réceptioniste pour M. EVANS

- relationship to the addressee (family, business or other):

- liens de parenté, de subordination ou autres, avec le destinataire de l'acte:

2) that the document has not been served, by reason of the following facts\*:

2. *que la demande n'a pas été exécutée, en raison des faits suivants:*

In conformity with the second paragraph of article 12 of the Convention, the applicant is requested to pay or reimburse the expenses detailed in the attached statement\*.

*Conformément à l'article 12, alinéa 2, de ladite Convention, le requérant est prié de payer ou de rembourser les frais dont le détail figure au mémoire ci-joint.*

LIST OF DOCUMENTS: Summons in a Civil Action, Complaint, Summary of the Document to Be Served, Translations

Annexes

Annexes

Documents returned:

*Pièces renvoyées:*

Réçusé, transmission au Juge  
 acte judiciaire, traduction

In appropriate cases, documents establishing the service:

*Le cas échéant, les documents justificatifs de l'exécution:*

Done at  
 Fait à

Monaco

, the

le 3 décembre 2009

Signature and/or stamp.  
 Signature et/ou cachet.

Le Directeur  
 des Services Judiciaires



\* Delete if inappropriate.  
*Rayer les mentions inutiles.*